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8 Susan Didriksen

9 UNITED STATES BANKRUPTCY COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 In re:)
12 MARIO J. THOMAS and ,)
13 KATHRYN A. PEREZ,)
14 Debtors.)

CASE NO. 10-50616-C-7
D.C. NO. BHS-2
**MOTION FOR SALE OF
STRUCTURED SETTLEMENT
PAYMENT RIGHT**

15 DATE: January 3, 2012
16 TIME: 9:30 a.m.
17 DEPT: C; COURTROOM 35
18 Hon. Christopher M. Klein

19 Susan Didriksen, duly appointed Chapter 7 Trustee (hereafter the "Trustee") in the
20 above-captioned matter, through her counsel, Barry H. Spitzer, moves this Court for
21 authority to sell a portion of the Debtors annuity future payments pursuant to the provisions
22 of 11 U.S.C. section 363(b) of the Bankruptcy Code. In support of her Motion, the Trustee
23 states the following:

24 1. That the Debtors filed a Chapter 7 petition on November 19, 2010. and
25 Movant was appointed as the Chapter 7 Trustee of the estate that day.

26 2. The Debtors have an annuity that was not disclosed on Schedule B of their
27 bankruptcy petition and it is now property of the estate. The annuity is from a settlement
28 on the wrongful death of Debtor's father. The Debtor is entitled to receive \$2,500.00 per
month from August 24, 2005 for life. Further, there are lump sum payments of:

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<u>Payment Date</u>	<u>Payment Amount</u>
August 24, 2012	\$ 25,000.00
August 24, 2017	\$ 50,000.00
August 24, 2022	\$ 75,000.00
August 24, 2027	\$100,000.00
August 24, 2037	\$280,684.00

3. The Trustee wishes to sell to RSL Funding, LLC (hereinafter "Buyer") or their assignee the right to the August 24, 2022 \$75,000.00 payment for the purchase price of \$25,000.00, with Buyer or their assignee being responsible for any and all state court fees and taxes, if any. The sale is "as-is" and subject to all of the terms and conditions contained in the annuity. A copy of the Transfer Agreement and Disclosure Statement are Exhibits "A" and "B." The discount rate for this transfer is 10%. It is anticipated the unsecured creditors who filed timely proofs of claim will be paid a 100% dividend. RSL will provide a \$5,000.00 deposit prior to the hearing. The deposit shall become non-refundable upon Bankruptcy Court approval of the sale. The transfer of the right to the annuity payment will also require approval by the California Superior Court.

4. Barry H. Spitzer, attorney for the Trustee, has in the past represented the Buyer in similar transactions in the California Superior Court. The discount rate offered by the Buyer is significantly better than the other offers received by the Trustee from Fairfield Funding, Imperial Structured Settlements and Peachtree Settlement Funding. Those discount rates ranged from 13.42% to 19.47%.

5. The Trustee requests that the Court only approve overbids presented at the hearing that meet the following criteria:

(a) Any overbid amount over the cash current bid of \$25,000.00 will start at \$25,500.00. The overbids shall be in minimum \$500.00 increments.

(b) To qualify as a bidder, the bidder must bring to the Court a Cashier's Check or a certified check for \$5,500.00. This Cashier's or certified check shall serve as a non-refundable deposit if the overbid is successful.

(c) The successful overbidder must deliver to the Trustee a Cashier's or certified check for the overbid amount within 48 hours of Court approval of the sale.

1 (d) Sale to be state court approved and paid in full within ninety (90) days
2 from Bankruptcy Court approval, pursuant to the terms and conditions of the disclosure
3 statement and transfer agreement.

4 6. The Trustee seeks authority to execute any and all additional conveyances,
5 assignments, schedules and other documents as may be necessary to consummate this
6 sale.

7 7. The Trustee further seeks a waiver of the fourteen day waiting period
8 imposed by Federal Rule of Bankruptcy Procedure, Rule 6004(h).


9 WHEREFORE, Susan Didriksen respectfully requests she be authorized to sell to
10 RSL Funding, LLC or their assignees the estate's interest in the August 24, 2022
11 \$75,000.00 payment for the purchase price of \$25,000.00, with RSL Funding, LLC or their
12 assignee being responsible for any and all state court fees and taxes, if any, "as-is" and
13 subject to all of the terms and conditions contained in the annuity and is pursuant to the
14 provisions of section 363(b) of the Bankruptcy Code; and authority to execute any and all
15 additional conveyances, assignments, schedules and other documents as may be
16 necessary to consummate this sale. The Trustee further seeks a waiver of the fourteen
17 day waiting period imposed by Federal Rule of Bankruptcy Procedure, Rule 6004(h).

18 Respectfully submitted,

19 DATED: November 30, 2011

LAW OFFICE OF BARRY H. SPITZER

20
21 By:


BARRY H. SPITZER
Attorneys for Susan Didriksen,
Chapter 7 Trustee

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VERIFICATION

2 I, Susan Didriksen, hereby declare:

3 1. I am the duly appointed Trustee in the above-entitled Estate.

4 2. I have personal knowledge of the facts stated herein and if called as a
5 witness, I could and would testify competently thereto.

6 3. I believe it is in the best interest of the estate to sell to RSL Funding, LLC
7 or their assignees the estate's interest in the August 24, 2022 \$75,000.00 payment for
8 the purchase price of \$25,000.00, with RSL Funding, LLC or their assignee being
9 responsible for any and all state court fees and taxes, if any. The proposed purchase
10 price is the highest value the property will bring the estate. The sale will allow for the
11 orderly liquidation of the estate. It is anticipated the unsecured creditors who filed
12 timely proofs of claim will be paid a 100% dividend.

13 I declare under penalty of perjury under the laws of the State of California that
14 the foregoing is true and correct and that this Declaration is executed on November 30,
15 2011 at Shingle Springs, California.

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Susan Didriksen

Digitally signed by Susan Didriksen
DN: cn=Susan Didriksen, o=Trustee, ou,
email=didriksen1@gmail.com, c=US
Date: 2011.12.02 09:44:14 -08'00'

Susan Didriksen, Trustee